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In the Supreme Court of the United States

OCTOBER TERM, 1971

ELLIOT L. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, APPELLANT

v.

RADIE WRIGHT, ET AL.

RADIE WRIGHT, ET AL., APPELLANTS

v.

ELLIOT L. RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

SUPPLEMENTAL BRIEF FOR THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

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ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

SUPPLEMENTAL BRIEF FOR THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

We indicated in our main brief (p. 22) that with respect to suspensions and terminations of disability benefits, the Secretary, in order to afford reasonable notice and opportunity to participate in the determination proceedings, would adopt procedures whereby

the beneficiary will be informed of the proposed adverse action and the information upon which it is based and will be given the opportunity to respond in writing before adverse action, if any, is taken.

Such procedures governing determinations of disability cessation by State agencies have now been adopted and put into effect by the Secretary.[1] Under these procedures, State Agencies are instructed to initiate suspension of benefits only when the evidence convincingly establishes a basis for a determination that disability has ceased and the State Agency cannot complete its final determination soon enough to prevent overpayments from being made (Dis. Ins. State Manual § 265.1 A) (App., *infra*, p. 7). Before requesting the Bureau of Disability Insurance to suspend benefits, State Agencies are required to inform the beneficiary, either by telephone or mail, of the proposed suspension and the reasons for it and to request the beneficiary to submit, promptly or where appropriate within a reasonable additional time, any rebuttal evidence or reply the beneficiary desires to be considered (Dis. Ins. State Manual § 265.1 D) (App., *infra*, p. 9). And before termination of benefits, where the medical evidence conflicts in any way with the beneficiary's assessment of the severity of his impairment or of the date of cessation of his impairment, State Agencies are required to inform the beneficiary, either by telephone or mail, of the

[1] See Disability Insurance State Manual Transmittal Letter Number 66 and the attached revised sections of the Disability Insurance State Manual, a copy of which has been filed with this Court. Pertinent provisions are included in an Appendix to this brief, *infra* pp. 4 to 21.

proposed termination and the evidence on which it is based and to give the beneficiary at least ten working days to respond in writing and, if he wishes, an additional twenty to thirty days to obtain and submit additional evidence in support of his claim (Dis. Ins. State Manual § 353.6) (App., *infra*, pp. 19–21). The Secretary is presently developing a similar termination procedure to cover terminations in cases involving a return to work but no issue of medical recovery.

Also, the Secretary is presently developing a procedure similar to the above, requiring notice and an opportunity to respond, for inclusion in the Claims Manual to govern continuing disability investigations by Social Security Administration district offices.[1]

These procedures, together with those already in effect for continuing disability investigations prior to suspension or termination of disability benefits, we submit, satisfy the requirements of due process.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

WILMOT R. HASTINGS,
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Education, and Welfare.

JANUARY 1972.

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[1] See Dis. Ins. State Manual Trans. Letter No. 66, para. 2 (App., *infra*, p. 4).

APPENDIX

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SOCIAL SECURITY ADMINISTRATION

DISABILITY INSURANCE STATE MANUAL TRANSMITTAL

(Letter Number 66)

DECEMBER 27, 1971.

To: All Holders of the DISM.

From: Social Security Administration.

Subject: Continuing Disability Policy and Procedures Sections 265ff and 353ff—Due Process Requirements.

The overall purpose of this transmittal is to clarify and sharpen policies and procedures for determining continuance or cessation of a beneficiary's disability. A paramount objective of the revisions is to assure that before any determination is made (1) we are in possession of all pertinent evidence of record and (2) that the evidence in file including the results of any consultative examination that was done is of sufficient probative value to permit making a sound determination. This principle applies to determinations to suspend benefits pending final determination as to continuing eligibility, as well as to determinations as to continuing disability.

When a beneficiary is contacted during a continuing disability investigation, he should be informed at the outset of the reason for the inquiry. He must also be given opportunity to make a statement about whether he feels he is still under disability, to present evidence,

and/or to rebut other evidence introduced which is adverse to his interest.

Included in the transmittal are updated policies and procedures which include certain revisions for processing continuing disability cases involving medical reexamination diaries previously set forth in DHL HI-9, §§ 265ff. These instructions are expanded to require the State agency to notify a beneficiary where it proposes to suspend benefits (as the DO is now required to do) and to give the beneficiary opportunity before such suspension action is taken to submit any rebutting evidence which he thinks is relevant to the decision. In addition, the instruction has been revised (1) to restrict the State agency telegram procedure for requesting suspension of benefits to those situations where cessation of disability is established, but the final determination of the SA cannot be processed through BDI soon enough to prevent (additional) overpayment(s), and (2) to change the data to be furnished where telegram is sent to permit immediate action upon its receipt in BDI.

The instruction also introduces a new flag (Form SSA-2456, Potential Overpayment Case) for use in all cessation cases where it was not appropriate to use the telegram suspension procedure, but where an overpayment nevertheless has occurred or potential overpayment is imminent.

§ 353.2 This material has been rearranged. In addition, more stress is placed on the need to obtain additional medical evidence when the evidence in file is not wholly convincing. This might be because the evidence is incomplete, there is a material conflict, or when the beneficiary's disagreement with the evidence raises a material question. Evidence must be convincing not only that a disability ceased, but also when

it ceased. The SA is cautioned to avoid making a determination that cessation occurred in a past month unless the evidence convincingly supports such a finding.

§§ 353.3 and 353.4 These sections explain that during the continuing disability investigation the beneficiary should be asked for a statement of his opinion about his current medical condition and his ability to work.

He should also be asked to identify medical sources that have treated him recently and may be able to furnish medical evidence needed in making determination as to his continuing disability. These sections incorporate, with some modification to reflect operating experience, the basic provisions introduced in DIL III-9 for conducting CDI's involving medical issues. The model guideletter (Form SSA-9577 contained in the DIL) has been revised and re-numbered SSA-454a. (Social Security Disability Beneficiary Report). To promote uniformity of development this new form is to be utilized by SA's, regardless of whether the CDI development with the beneficiary is by mail or by telephone.

These instructions reemphasize existing policy that medical evidence of a beneficiary's current condition should always be initially requested from the beneficiary's current treating source. When this evidence materially conflicts with the beneficiary's own statement concerning whether his disability continues, or when the evidence is not convincing as to whether disability continues or has ceased, a CE should be obtained.

§ 353.4C explains the conditions under which it is necessary to obtain written confirmation of certain medical information received by telephone.

§ 353.5 expands and clarifies existing instructions on evaluation of continuing disability cases.

§ 353.6 is a new section which requires the SA to undertake a subsequent contact with beneficiaries prior to effectuation of a determination of cessation where the medical evidence conflicts in any way with the beneficiary's assessment about the severity of his impairment or about the date of cessation. Model language is given when it is necessary for the SA to so contact a beneficiary.

It is recommended that these instructions be studied carefully and be the topic for staff discussion and training. * * *

The Disability Insurance State Manual, as modified effective December 27, 1971, provides in pertinent part:

265.1 When to Request That BDI Suspend Benefits Pending Determination As to Whether Disability Continues

A. *General.*—The SA should initiate action to suspend benefits only (1) when the evidence convincingly establishes a basis for a determination of cessation of disability (see § 350ff); (2) the beneficiary is in payment status; and (3) the SA cannot complete its final determination soon enough to prevent an overpayment from being made.

This would apply in a medical recovery case, for example, where cessation of disability occurred more than 2 months ago but further development must be made to check out the possibility of an even earlier cessation date. Similarly, in a return to work case, suspension action would be called for where return to work demonstrating ability to engage in SGA occurred more than 11 months ago if the beneficiary is entitled to a TWP, or more than 2 months ago if he is not.

B. *How to Establish Whether Benefits Are Being Paid.*—

1. *General.* In all DIB cases where the evidence points to cessation, the SA should de-

termine whether benefits are currently being paid. The SA may conclude that benefits have already been suspended if the file reflects one or more of the following:

A special "Benefits Suspended" flag, Form SSA-529, is attached to the folder; or

Form SSA-881 is checked to show *"Benefit Payments have been suspended"* (item 8 of 2/70 printing); or

The folder contains a copy of a telegram from a DO to BDI requesting suspension of benefits (and benefits have not been reinstated); or

A Form SSA-510 (Determination of Termination of Entitlement or Suspension of Payments Based on Supporting Evidence in File) showing benefits are stopped is on the left side of the file.

2. *When Benefits Have Been Stopped.* In some cases where BDI is convinced that a cessation will result and an overpayment may occur, benefits will have been stopped before the case is sent to the SA. In other instances, the DO, after its continuing disability investigation, may request BDI by telegram to suspend benefits.

If benefits have been stopped, the SA should complete any necessary development, prepare the determination, and expedite transmittal of the folder to BDI (see § 265.3).

C. *When BDI Must Receive a Suspension Notice to Stop a Given Month's Check.*—Regular monthly checks to beneficiaries are dated the 3rd of the month and represent payment for the preceding month. The checks are released by the Treasury to the Postal Service on the last several working days of a month. To stop any such check, a request to suspend must ordinarily be *received* in BDI prior to the last 10 working days of the month.

D. *Providing the Beneficiary Opportunity to Present Evidence Before Suspension.*—Before proceeding to request suspension, inform the beneficiary (or payee) of the proposed suspension action, the reasons therefore, and document the file accordingly. The notice to the beneficiary may be by telephone. The beneficiary should be requested to reply promptly and, as appropriate, given reasonable additional time to submit evidence. Where development is by mail, see § 353.6 for a letter that can be adapted to "suspension" situations.

* * * * *

267. Possible Subsequent Period of Disability

Where disability has ceased and it appears that the individual may again be under a disability, enter an appropriate remark to that effect on Form SSA–833 or Form OAAD–408 (Route Slip).

However, if the evidence *clearly* establishes that the individual is again under a disability, the State agency may prepare a determination (OA–D831) in the usual manner with the exception that the "date of application" items should not be completed. SSA will contact the individual for a new application.

* * * * *

353. Medical Recovery

353.1 General

A determination that disability has ceased will be made where the medical and vocational evidence establishes a capacity for substantial gainful activity, whether or not the beneficiary returns to work.

Issues of medical recovery generally arise in cases which have been scheduled for medical reexamination in accordance with § 347ff. When the reexamination date is reached, a continuing disability investigation will usually be initiated. The following sections govern the development and adjudication of continuing

disability cases involving issues of medical recovery.

353.2 Possible Medical Recovery—Return to Work

A. *General.*—If a beneficiary's impairment might reasonably have been expected to improve (i.e., a medical reexamination diary was correctly established in accordance with §§ 348.1 or 349.1), a subsequent return to work before the month of the scheduled medical reexamination is considered as a possible indication of medical recovery and the case is sent to the DO for development. Upon completion of the DO development, the case is sent to the SA. The SA must carefully consider the development already undertaken to determine whether further medical documentation is needed and, if so, the type and extent necessary for a sound determination of continuance or cessation.

B. *Clear-Cut Cessation (Medical).*—In certain clear-cut cases, cessation may be found without current medical development on the basis of medical recovery as of the first month of return to full-time work with no significant medical restrictions. Where there is no evidence to the contrary, the evidence of record regarding the anticipated medical recovery may reasonably support a finding that the return to full-time work with no significant medical restrictions was occasioned by sufficient medical improvement (i.e., that the individual, by returning to full-time work has clearly demonstrated that he has recovered to the extent that he has regained the ability to engage in SGA).

Example: The evidence obtained during the initial case processing revealed that the individual had an impairment with marked functional restrictions which was expected to continue for more than 12 months but that recovery was expected 18 months after onset and a medical reexamination was established accordingly. Upon notice by the beneficiary that he

returned to work, a CDI was initiated. The district office CDI interview disclosed that 16 months after onset the beneficiary returned to full-time work earning $400 a month. He stated that his doctor said he could return to work and did not impose any medical restrictions. Cessation for medical improvement, without additional development, should be found in the 16th month after onset. (On Form SSA–833, Determination of "Cessation or Continuance of Disability", Item 11B, should be checked. In Item 12, Evidence and Reasoning, the finding of cessation should be based on medical recovery and not on the services rendered during the trial work period, which under the law may not be used as the sole basis for termination until the trial work period is completed.)

C. *Evidence of Record Inconclusive.*—In all cases where the evidence in the record is inconclusive (e.g., working part-time, allegations of continued disability or work contrary to medical advice), current medical development should be undertaken to resolve the issue of medical recovery (see § 353.4). For example, had the individual described in the example above returned to part-time work, current medical development would have to be undertaken because it is not clear he has fully recovered.

D. *Continuance.*—If it is found that the individual is working despite a continued severe impairment and such work is within the trial work period, a finding of continuance should be made. In no instance should the work by itself be considered a basis for cessation until the expiration of the trial work period (see § 352.4 above). Upon expiration of the trial work period, the work should be evaluated in accordance with § 330ff.

When preparing a continuance determination in a case where the individual has been working less than 9 months, if further and substantial improvement is anticipated (§§ 347ff), the SA should indicate the appropriate date for a

subsequent medical reexamination diary. However, ordinarily the diary should not be scheduled earlier than the anticipated 9th month of work, at which time, an investigation of both the medical improvement issue and work activity may be conducted simultaneously. If cessation is justified on the basis of substantial gainful activity, medical development would be unnecessary. However, if at the expiration of the anticipated 9th month of work it is found that the individual did not, in fact, work in all 9 months or his work does not constitute SGA, his case will still be investigated from a medical improvement standpoint.

E. *Cessation.*—Where the SA obtains current medical evidence which indicates a cessation is in order, the SA should find cessation in the month established by the medical evidence, irrespective of whether this coincides with the month of return to work. Retroactive cessation to the month work began should not be found unless the facts (medical and work) convincingly demonstrate the propriety of such action (see § 353.5). For example, if the beneficiary was still severely impaired at the time he returned to work but recovered by the time of a consultative examination, the month of cessation would be the month of the consultative examination rather than the month of work resumption.

353.3 Possible Medical Recovery—No Return to Work

A. *General.*—Cases involving matured medical reexamination diaries and other issues of possible recovery, such as, report of release from a hospital, report of improvement, etc., will be sent directly to State agencies on Form SSA–847 (BDI Request for Case Action). Cases transmitted under this section (where the beneficiary has not reported a return to work) will be noted on Transmittal "Re Exam Diary, etc. CDI § 353.3".

B. *State Agency Action.*—The SA will review the file in accordance with the following instructions and contact the beneficiary and appropriate medical sources to obtain the evidence that is necessary to determine if disability is continuing or has ceased. When information is received that the beneficiary has returned to work, the SA will utilize the adjudicative concepts under § 353.2.

Occasionally, SA's may find that a medical reexamination should not have been scheduled (§§ 347ff). In other cases, the file may reveal that the beneficiary has died or is hospitalized so that there is no current CD issue. The SA will return such cases to BDI on route slip Form OAAD–408 (without an SSA–833) with an appropriate notation under remarks such as, "No CD Issue—Beneficiary Hospitalized (give reason)" or "No CD Issue—Beneficiary Died". Include in the folder any supporting evidence; where appropriate, prepare a report of contact (see subsection IIA2b of DIL II–36—Transmittal of Folders to SSA).

1. *Initial State Agency Contact with Beneficiary*—The SA will contact the beneficiary to inform him that it has been requested by SSA to determine whether he continues to be unable to engage in SGA by reason of his impairment and to obtain information concerning: (1) sources of medical treatment, and (2) his participation (including any work) in a State VR program, if any, and (3) his opinion as to whether his condition has improved so that he is able to return to work. This initial contact may be made by mail or telephone.

a. *Contact is by Mail*—Form SSA–454(a) (Social Security Disability Benefit Report) (Exhibit 8a) should be used where the contact is made by mail. Complete the form by entering the SA name and address, the date, the beneficiary's social security number, name, and address, and the SA's director's name (or his designee). A pre-addressed, postage paid envelope

should be included. If a reply is not received, an appropriate followup (by mail or phone) should be made as soon as possible but not later than *two* weeks after the initial mailing. If the form is returned and the response is adequate follow § 353.4. If the response is not adequate or not received, develop through the district office in accordance with (B)(2) below.

b. *Contact is by Telephone*—Where the initial contact is made by telephone, the SA should use Form SSA–454(a) as a guide to assure that all pertinent questions are asked. The beneficiary's answers should be recorded on the SSA–454(a) and the form annotated to show that the information resulted from a telephone conversation. Always record the name of the person providing the information on the form. The beneficiary (or payee) should be informed that the information he furnishes (and other information received) will be used to determine his continuing entitlement to disability benefits. Send a copy of the completed SSA–454(a) to the beneficiary for his information, any necessary revision, his signature, and prompt return.

The check-payee (i.e., the beneficiary or his designated representative) is responsible for reporting events affecting payments. In the interest of assuring administrative due process in continuing disability investigations, the SA will initially attempt to conduct the telephone (or mail) contact with such payee. When the SA contact is with someone other than the check-payee, the SA should satisfy itself that he is an acceptable source before requesting information to complete the form, i.e., a competent adult in a position to supply reliable information *on the beneficiary's behalf*. For example, the SA may telephone the beneficiary in an effort to secure information needed to document its continuing disability investigation. The beneficiary's wife residing at the same address answers the phone and explains that the beneficiary is working.

She provides full details. As in the preceding paragraph, send a copy of the report to the beneficiary (or representative payee) and ask his confirmation in writing whether the facts reported are accurate.

2. *Requesting DO Assistance.*—There may be situations where the SA is unable to complete its development without the assistance of the district office. When it is necessary to forward a file to the district office, use Form SSA–883 (Request for Evidence or Assistance—Disability Cases) and give an appropriate explanation of development needed.

Situations in which the SA may request district office assistance, will include cases where

The beneficiary has not responded (after appropriate follow-ups by mail or telephone) to requests for information, or

The beneficiary response is inadequate to resolve the issues raised, or

Assistance is needed in securing specific information and the SA believes the DO is in a better position to obtain it.

When a personal contact is made by the DO, an SSA–454 (Report of Continuing Disability Interview) will usually be completed as well as a Form SSA–821 (Work Activity Report) where indicated. Upon completion of its action, the district office will return to folder to the SA. In cases where the DO is unable to contact or locate the beneficiary, the case will be processed in accordance with §§ 356ff.

353.4 Development of Medical Evidence

A. *Development of Current Evidence.*—

1. *Evidence of Record.*—If the beneficiary reports that he has returned to full-time work and there is no indication of significant medical restrictions, no further medical development is needed (§ 353.2B). Otherwise, the SA must develop appropriate evidence from medical sources (such evidence should be developed even though the beneficiary reports that he has recovered sufficiently to be able to engage in

SGA). The responsibility for medical development in continuing disability is placed primarily upon the State agencies. If the beneficiary has a current treatment source, that source should always be requested to furnish evidence of record describing the beneficiary's current condition. Even though it may be necessary to request a CE to resolve the question of continuing disability, the presence in file of reports from the beneficiary's medical sources will better insure that no pertinent evidence has been overlooked and thus insure the soundest possible basis for making determinations.

2. *Consultative Examinations.*—When evidence of record concerning the beneficiary's condition is not available, is not based on a recent examination and for this reason is not convincing about the beneficiary's current condition, or is not sufficiently detailed in terms of signs, symptoms, and laboratory findings to enable a sound independent medical judgment to be made, a consultative examination should be purchased. In selecting a consultative examiner the attending physician should be given first consideration (see § 244). When contacting the attending physician, special care should be exercised to clearly explain the reason for requesting a current examination, i.e., to determine whether the individual may continue to receive disability benefits because he still has a severe impairment, or whether his condition has so significantly improved that he would no longer be entitled to disability benefits. Also explain that his report could be the basis for a decision which would result in the termination of the individual's disability benefits. Some physicians ma, be very reluctant to serve as the sole or primary source of information which might result in the loss of benefits for their patients. Where the attending physician objects to performing a current examination for the SA, other examination sources should be utilized.

B. *Conflicts Between Beneficiary and His Medical Source.*—Ordinarily, where improvement occurs which permits return to work, this fact will have already been communicated by the attending physician to the beneficiary. If, however, when contacted in accordance with § 353.3B(1), the beneficiary states that his doctor did not recommend that he return to work, or the beneficiary still feels he is unable to work because of his impairment, but the medical evidence received from his attending physician indicates that the beneficiary is no longer disabled, there is a conflict that needs to be resolved. The sensitivities involved here suggest the need for delicate handling. In some cases it may be desirable to arrange for a CE by an independent medical source before making a determination.

C. *Documenting File.*—Material medical source evidence used to establish that the beneficiary is no longer under a disability should be in writing, signed by the source of the information, and the source should be properly identified. Therefore, when development of such evidence is accomplished by telephone, a copy of the report should be sent to the source for signature and return. An exception can be made where a signed, written report was previously received during the current investigation and it is necessary only to confirm some detail by telephone; here, a report of telephone conversation signed by the SA examiner is sufficient (see §§ 216 and 217).

353.5 Evaluation of Medical Evidence

A. *General.*—Where return to work does not provide a basis for cessation based on SGA after a TWP (§ 352.5), or under the clear-cut concept of medical recovery (§ 353.2B), evidence from medical sources describing the beneficiary's current medical condition (see B below) will be controlling in arriving at a decision. As in the case of establishing entitle-

ment to benefits initially, the relevant medical evidence for determining continuing disability must be sufficiently detailed as to signs, symptoms, and laboratory findings to enable a sound judgment to be made by an independent reviewer of the record. Detail is especially needed when certain evidence indicates cessation but the beneficiary says that he is unable to return to work because of his impairment, or that his doctor has placed restrictions on how much or what kind of work he may do.

B. *Evaluation Guides for Determining Whether Disability Continues.*—The standards and the evaluation guidelines that apply in determining initial entitlement to benefits also apply for determining whether disability continues. There could be exceptional situations encountered, however, where though the CDI reviewer is of the view that disability does not presently exist, there is evidence that medical improvement has not occurred since the initial disability determination of allowance or the most recent continuance determination. In other words, there may be a question whether the individual was properly entitled to benefits in the first place or whether benefits should have been previously continued. In this situation, absent significant improvement in vocational competence (as described below), the only recourse is reopening the previous favorable determination. This in turn is limited by the rules of administrative finality (see § 277(A)(1). Such reopening (when requested by BDI) should be done, however, only where the previous determination is wholly unsupportable by the evidence not just because of differences in judgment. In a rare case, where the medical evidence is such that the question of improvement cannot be resolved, that is, functional loss at the time of the CDI cannot be satisfactorily compared with the functional loss at the time of a previous finding

of disability, a determination as to continuing disability may be made on the basis of current assessment of the beneficiary's condition.

Where the beneficiary's medical condition remains unchanged, but his vocational competence has improved significantly, e.g., he has acquired new relevant skills by reason of completing a training course in vocational rehabilitation, a new evaluation in terms of present capacity to engage in SGA would be required in accordance with DIL III–3. (Identify any cessation determination prepared under this paragraph for policy review and route folder to BDI in accordance with section II(A)(2)(a) of DIL II–36.)

353.6 Subsequent Contact with Beneficiary Prior to Effectuation of Determination of Cessation

A. *Evidence Conflicts with Beneficiary's Allegations.*—Where the medical evidence conflicts in any way with the beneficiary's assessment about the severity of his impairment, or about the date of cessation of such impairment, the beneficiary should be again contacted before a determination of cessation is made. A conflict arises when the beneficiary has informed the SA that his condition has not improved (Item 1(a) of the SSA–454(a) is answered "No") but the medical and other CD evidence justifies a cessation of disability (see § 353.4). The beneficiary should be informed by mail or telephone of the proposed adverse action and of the evidence on which it is based and be given a reasonable opportunity (i.e., at least 10 working days) to respond in writing; if he wishes to obtain and submit additional evidence which may be material in support of his claim, he may be granted an additional time (i.e., 20–30 days) to present such evidence.

When it is necessary to so contact a beneficiary (entitled as a DIB, DWB or CDB)

by mail, the following model language should be used before adverse action, if any, is taken:

"We previously informed you that we were asked by the Social Security Administration to help determine whether your impairment still prevents you from working. Although you indicate on the report you recently completed for us that you do not feel your condition has improved so that you are able to return to work, the other information and evidence in your case shows that you are able to work, and have been, since the SA will (1) enter the date of the proposed cessation based on the CD evidence of record, (2) provide a brief summary of the evidence on which the proposed adverse action is predicated and enclose a self-addressed postage paid return envelope for beneficiary's response. Therefore, disability benefits being paid on your social security number must be stopped unless additional evidence is submitted which shows that you are still unable to work because of your impairment.

"If you have any additional information you want us to consider, please let us know immediately, using the enclosed envelope; a reasonable additional amount of time will be granted where necessary for you to obtain and submit additional evidence. If we do not hear from you within 10 days, we will forward your records to the Social Security Administration and when a formal decision is made you will be notified.

"Under the social security law, benefits may be paid for a 3-month period of adjustment. This period includes the month in which you have a regained ability to work and two additional months."

The SA will hold the file for a maximum of 15 days while awaiting beneficiary's response. Where the beneficiary submits additional evidence, it should be evaluated along with the CD evidence of record. If the beneficiary does not

respond or if the response from the beneficiary does not alter the proposed finding of cessation, the SA will prepare the determination and process the case.

B. *SA Notice to Beneficiary of Proposed Suspension Action.*—As in "A" above, the SA should always advise the beneficiary (or his representative) of any proposed action to suspend benefits (in accordance with § 265.1D), before taking action to recommend suspension to BDI.

* * * * *

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